

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSEPH A. BARKER, REGIONAL DIRECTOR)	
OF REGION 13 OF THE NATIONAL LABOR)	Civil No. 08 CV 2771
RELATIONS BOARD, FOR AND ON BEHALF)	
OF THE NATIONAL LABOR RELATIONS)	
BOARD)	Judge Gottschall
	Magistrate Judge Valdez
Petitioner)	
)
v.)	
)
INDUSTRIAL HARD CHROME, BAR)	
TECHNOLOGIES LLC, FLUID POWER)	
MANUFACTURING, A SINGLE EMPLOYER)	
Respondent)	
)
)
)
)
)

MOTION TO TRY PETITION FOR PRELIMINARY INJUNCTION
UNDER SECTION 10(j) OF THE NATIONAL LABOR RELATIONS ACT
ON THE BASIS OF THE ADMINISTRATIVE LAW JUDGE'S HEARING
TRANSCRIPT AND EXHIBITS, TO FILE PETITIONER'S
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PETITION, TO CORRECT CERTIFICATE OF SERVICE, AND FOR
ORAL ARGUMENT

Now comes Elizabeth S. Cortez, Counsel for Petitioner, and requests the Court to: base its decision on the merits of the Petitioner's preliminary injunction request, in part, on the transcripts and exhibits of the administrative proceedings before an Administrative Law Judge of the National Labor Relations Board; accept Petitioner's Memorandum of Points and Authorities in Support of Petition for Injunction after receipt of the transcript of the administrative hearing; to correct the certificate of service; and to hear oral argument. In support of these motions Counsel for Petitioner states as follows:

1. On May 13, 2008, Petitioner filed with this Court a Petition For Preliminary Injunction Under Section 10(j) Of The National Labor Relations Act (herein called the Act) [29 U.S.C. Section 160(j)].

2. Public Law 98-620, 28 U.S.C. Section 1657, requires that this Court expedite the consideration of any action for preliminary injunctive relief, or any other action, if good cause therefore is shown. "Good cause" is shown if a right under a federal statute "would be maintained in a factual context that indicates that a request for expedited consideration has merit." *Id.*

3. A hearing before an Administrative Law Judge of the National Labor Relations Board on the allegations of the complaint underlying the Petition for Injunctive Relief will commence on June 23, 2008, and is anticipated to conclude on June 25, 2008. The parties will have the opportunity to present and to cross examine witnesses and present any relevant evidence in the administrative proceedings. A full and complete transcript of these proceedings is anticipated to be received by the Petitioner no later than July 7, 2008.

4. The District Court need not proceed to a full evidentiary hearing in this matter. Petitioner maintains that the Court may utilize the transcripts and exhibits of the administrative proceeding to evaluate the issue of the Petitioner's likelihood of success on the merits of the underlying proceeding before the National Labor Relations Board as set forth in *Kinney v. Pioneer Press*, 881 F.2d 485, 490 (7th Cir. 1993) and *NLRB v. Electro Voice, Incorporated*, 83 F.3d 1559, 1566 (7th Cir. 1996). However, if the administrative record does not contain all the evidence relating to the equitable criteria for injunctive relief, a matter beyond the purview of the administrative proceeding, it may be necessary for the parties to present further evidence on these elements of the case. Therefore, if necessary, Petitioner requests leave for the parties to present evidence on the equitable criteria for injunctive relief in the form of witness testimony and/or affidavit evidence, as well as an opportunity to orally argue the overall merits of the petition for equitable relief before this Court.

5. The Certificate of Service attached to the Petitioner's Petition for Preliminary Injunction as referenced above was dated May 13, 2008, but should be dated May 14, 2008.

WHEREFORE, Petitioner respectfully moves that this Court:

1) Grant Petitioner's Motion to Try Petition for Injunction Under Section 10(j) of the National Labor Relations Act On Basis Of The Administrative Law Judge's Hearing Transcript and Exhibits of the underlying proceeding before the National Labor Relations Board;

- 2) File Petitioner's Memorandum of Points and Authorities in Support of Petition for Injunction Under Section 10(j) of the Act after receipt of the transcript of the administrative proceedings by this Court.
- 3) Set hearing for "Just and Proper" evidence, if necessary, on July 17, 2008, or as soon thereafter as a hearing may be scheduled on Petitioner's application for injunctive relief.
- 4) Set hearing for oral argument on July 17, 2008, or as soon thereafter as a hearing may be scheduled on Petitioner's application for injunctive relief.

DATED at Chicago, Illinois this 19th day of May, 2008.

/s/ Elizabeth S. Cortez, filed electronically
Elizabeth S. Cortez
Counsel for Petitioner
National Labor Relations Board, Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604
(312) 353-4174

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CERTIFICATE OF SERVICE

The undersigned hereby certify that true and correct copies of the Motion to Try Petition for Preliminary Injunction Under Section 10(j) of the National Labor Relations Act On Basis Of The Administrative Law Judge's Hearing Transcript and Exhibits, To File Petitioner's Memorandum Of Points And Authorities In Support Of Petition, To Correct Certificate of Service, And For Oral Argument, have, this 19th day of May, 2008, been served in the manner indicated upon the following parties of record:

Certified Mail

Industrial Hard Chrome LTD., Bar Technologies LLC,
Fluid Power Manufacturing, A Single Employer
501 Fluid Power Drive
Geneva, IL 60134
Attn: Mr. Fred Parker

Wessels & Pautsch, P.C.
33 W. Monroe, Suite 1120
Chicago, IL 60603
Attn: Walter J. Liszka, Esq.
Christina Lopez-Nutzman, Esq.

United Steel, Paper & Forestry, Rubber, Manufacturing,
Energy, Allied Industrial & Service Workers International
Union AFL-CIO-CLC
1301 Texas Street, Room 200
Gary, IN 46402
Attn: Anthony Alfano, Esq.

/s/ Elizabeth S. Cortez, filed electronically
Elizabeth S. Cortez
Counsel for Petitioner
National Labor Relations Board, Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604
(312) 353-4174

CORRECTED CERTIFICATE OF SERVICE

The undersigned hereby certify that true and correct copies of the Petition for Preliminary Injunction Under Section 10(j) of the National Labor Relations Act, have, this 14th day of May, 2008, been served in the manner indicated upon the following parties of record:

Certified Mail

Industrial Hard Chrome LTD., Bar Technologies LLC,
Fluid Power Manufacturing, A Single Employer
501 Fluid Power Drive
Geneva, IL 60134
Attn: Mr. Fred Parker

United Steel, Paper & Forestry, Rubber, Manufacturing,
Energy, Allied Industrial & Service Workers International
Union AFL-CIO-CLC
1301 Texas Street, Room 200
Gary, IN 46402
Attn: Anthony Alfano, Esq.

Hand Delivered

Wessels & Pautsch, P.C.
33 W. Monroe, Suite 1120
Chicago, IL 60603
Attn: Walter J. Liszka, Esq.
Christina Lopez-Nutzman, Esq.



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